IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.
CIVIL APPLICATION No. 1383/2006
IN
FIRST APPEAL ST. No.5776 of 2006.

State of Maharashtra. Appellant.

Vs.

Mahadeo Krishna Pendurkar. Respondent.

Mrs. G.P. Mulekar, A.G.P.for Applicant/
Appellant.

Mr. Neel Helekar for Respondent No.1.

CORAM: S.B.DESHMUKH,J.
DATED: 21 /09/2006.

P.C.:-

1] The learned Counsel appearing for the Appellant submits that Respondent no.1 is duly served and Advocate has entered appearance. Respondent no.1 is present in the Court. The learned A.G.P. seeks ad-interim relief and makes a statement that entire decretal amount should be deposited in the Tribunal within eight weeks.

2] The learned Counsel for the Respondent seeks permission to withdraw the amount if deposited by the Applicant/Appellant.

3] Having heard the learned Counsel for the Parties, Judgment and Award passed by the Tribunal is stayed subject to condition that the Applicant/State shall deposit entire decretal amount in the Trial Court within a period of eight weeks from today. The learned Counsel for the Appellant submits that permission for withdrawal of the amount of compensation can be considered at the time of admission of the Appeal itself. The Appeal is arising out of Judgment and order passed by the learned Judge of ESI Court, Mumbai in Application (E.S.I.) No.18 of 1996. The learned Counsel for the Respondent submits that the Respondent met with an accident and sustained disablement which took place on 5th January,1995. Disability alleged by him is to the extent of hundred percent. In this view of the matter, the Respondent can be permitted to withdraw decretal amount on furnishing surety to the satisfaction of the Trial Court.

4] In the result, Civil Application is partly allowed. The Judgment and order passed by the Trial Court shall stand stayed until

further orders subject to condition that the Applicant/State shall deposit entire decretal amount in the Trial Court within a period of eight weeks. On deposit of such amount, the Respondent is permitted to withdraw decretal amount from the Trial Court on furnishing surety to the satisfaction of the Trial Court. In case, the Applicant/State fails to deposit the decretal amount within stipulated period of time, stay granted shall stand vacated without reference to the Court. List the Appeal in admission category on 13th October, 2006.

[S.B.DESHMUKH,J.]